



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

NEW ENGLAND OFFICE

5 Post Office Square

Boston, MA 02109

DEC - 3 2014

UPS Overnight Delivery

Docket No. CWA-01-308-15-006

Geoffrey Evancic, President
Whipple Construction Company
446 Main Street, 7th Floor
Worcester, MA 01608

**Re: Request for Information Pursuant to Section 308 of the Clean Water Act
(33 U.S.C. § 1318)**

Dear Mr. Evancic:

Enclosed is a Request for Information ("Request") related to the construction project at 154 Ashby Road and Lot 4 Ashby road in Ashburnham, Massachusetts (the "Site"). On November 7, 2014, the U.S. Environmental Protection Agency, Region 1 (the "Region") conducted a Clean Water Act stormwater inspection at the Site.

Section 308(a) of the Clean Water Act ("the Act"), 33 U.S.C. § 1318(a) authorizes the United States Environmental Protection Agency ("EPA") to require any owner or operator of any point source to provide information needed to determine whether there has been a violation of the Act. Accordingly, you are hereby required, pursuant to 33 U.S.C. § 1318(a) to respond to the enclosed Information Request (**Enclosure 1**) **within fifteen (15) calendar days of receipt of this letter.**

Please read the instructions and definitions in the enclosure carefully before preparing your response. Answer each question as clearly and completely as possible. Your response to this request must be accompanied by a certificate that is signed and dated by the person who is authorized by Whipple Construction Company to respond to the request. The certification must state that the response is complete and contains all information and documentation available to you that is responsive to the request. A **Statement of Certification** is enclosed with this letter (**Enclosure 2**).

Information submitted pursuant to this letter shall be sent by certified mail and shall be addressed as follows:

Andrew Spejewski
U.S. Environmental Protection Agency
Water Technical Unit (OES04-1)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Although the information requested must be submitted to the EPA, you are entitled to assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. Part 2, Subpart B. If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.

The Small Business Regulatory Enforcement and Fairness Act ("SBREFA") provides small businesses with the opportunity to submit comments on regulatory enforcement at the time of an EPA enforcement activity. The enclosed Information Sheet (**Enclosure 3**) provides information on this right, as well as information on compliance assistance that may be available to you. The Small Business Ombudsman may be reached at 1-800-368-5888. Please be aware that this does not relieve you of your responsibility to comply with federal law, your NPDES Permit, and this information request.

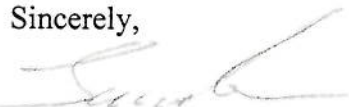
You may wish to visit the EPA's national or Region One storm water websites to obtain more information on general Federal and State storm water requirements at:

http://cfpub.epa.gov/npdes/home.cfm?program_id=6
<http://www.epa.gov/region01/topics/water/stormwater.html>

Compliance with the provisions of this letter is mandatory. Failure to respond fully and truthfully or to respond within the time frame specified above constitutes a violation of the Clean Water Act subject to enforcement action, including the assessment of penalties. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal prosecution under 18 U.S.C. § 1001. Please be aware that the issuance of this letter and providing the requested information does not relieve you of any responsibility under the Act.

If you have any technical questions relating to this information request, please contact Andrew Spejewski of my staff at (617) 918-1014. If you have any legal questions, or if your attorney wishes to communicate with the EPA on your behalf, please contact Jeffrey Kopf, Senior Enforcement Counsel at (617) 918-1796.

Sincerely,



James Chow, Manager
Technical Enforcement Office
Office of Environmental Stewardship

Enclosures

- (1) Information Request
 - (2) Statement of Certification
- Information Sheet (U.S. EPA Small Business Resources)

Enclosure 1

Information Request

A. Instructions

1. All documents relied upon or used by you to answer any of the questions in the request must be copied and submitted to the EPA with your response. All documents must contain a notation indicating the question and subpart of the question to which they are responsive.
2. If any question cannot be answered in full, answer to the extent possible. If your responses are qualified in any manner, please explain.
3. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to the EPA. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA of this fact as soon as possible and provide a corrected response.
4. Please provide a separate narrative response to each and every question and subpart of a question set forth in this Information Request. Precede each answer with the text and the number of the question and the subpart to which the answer corresponds.
5. For the purpose of answering the following questions, "the Site" refers to 154 Ashby Road and Lot 4 Ashby road, adjoining lots on Ashby Road.

B. Respond to the Following Questions

1. Specify, without abbreviation, the full legal name of the owner(s) of all portions of the Site since the beginning of earth-disturbing activities. Provide the mailing address and phone number of any owner(s) of the Site. If any owner(s) are incorporated, specify the state of incorporation and the principal place of business. If portions of the Site have different owners, provide a map showing property lines (this may be combined with the map for question 4 below). If ownership of any portions of the site has changed since beginning of construction, provide the date of ownership transfer.
2. Provide the following information for the Site (as defined in the instructions, above):
 - a. Specify the operators¹ of the Site during all times that construction activities are/were occurring since January 1, 2010. Provide the name and address of each operator specified, the area of the Site under its control, and the period of time during which each was an operator at the Site.
 - b. Specify the developers of the Site during all times that construction activities are/were occurring since January 1, 2010. Provide the name and address of each developer specified, the area of the Site under its control, and the period of time during which each was a developer at the Site.
 - c. Specify the General Contractors at the Site during all times that construction activities are/were occurring since January 1, 2010. Provide the name and address of each General Contractor specified, the area of the Site under its control, and the period of time during which each was a General Contractor at the Site.
3. Provide the information requested below regarding the timetable of construction activities:
 - a. When did the earth disturbing activities commence at the Site (provide a specific date).
 - b. Describe the condition of each portion of the surface of the Site (e.g., natural soil, forested, stripped, paved, etc.) before commencement of earth disturbing activities.
 - c. Describe the current stage of the activity at the Site (e.g., clearing/grubbing, grading, infrastructure, paving, building construction, final stabilization). If different portions of the Site are at different stages of construction, describe each portion (including approximate size) and its current stage of construction. Provide the date when earth disturbing activities began for each

¹ "Operator" in the context of storm water associated with construction activity means any party that: 1) has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or 2) has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a Storm Water Pollution Prevention Plan for the site or other permit conditions.

portion of the Site. After commencement of earth disturbing activities at the Site, were activities temporarily or permanently ceased on any portion of the Site? If so, describe the time period as well as any temporary or permanent stabilization measures that were employed.

- d. For each portion of the Site that has achieved final stabilization (i.e. 70% of the area is paved or planted in perennial vegetative cover), provide the specific date of final stabilization. Provide an estimated date of final stabilization of all other portions of the Site.
 - e. When were (or will) the construction activities (be) completed at the Site? Provide a specific date for completion or an estimated future date of completion.
4. Provide a map of the Site. The map must include approximate elevations sufficient to show direction of stormwater flow and must indicate locations of erosion control measures. Delineate on the map the different portions of the Site identified in question 3 above. Indicate all stormwater control structures and catchbasins, pipes, detention basins, and other structures, as they existed on September 13, 2013.
 5. For each Site stormwater discharge to surface waters or wetlands, state the name and location of the receiving waters or wetlands. If unknown, identify the unnamed surface waters, and the nearest named surface water or wetland to which the unnamed water flows. If stormwater is not discharged directly to surface waters or wetlands (i.e., collected in a detention basin, swales, catch basins), describe the pathway of the stormwater flow including the immediate and ultimate destinations and the means of conveyance. If the discharge of stormwater has changed since the date(s) that earth-disturbing activities commenced, provide a description of the changes, and the dates when the discharge changed.
 6. Identify any Notices of Intent (NOIs) for coverage of the Site under the federal NPDES General Permit for Storm Water Discharges from Construction Activities, and associated permit tracking numbers. Provide a copy of all EPA acknowledgements of receipt for any NOI filed for the Site. If no NOI was submitted, explain why.
 7. Provide copies of all Stormwater Pollution Prevention Plans (SWPPPs) developed for the Site, and copies of all reports for inspections of erosion controls or compliance with the NPDES Construction General Permit.
 8. Describe all specific source control measures, best management practices ("BMPs") and structural controls which are or have been used to control stormwater runoff and minimize the pollutants in the stormwater discharge at the Site since commencement of construction. For each measure, BMP, and control, state the date when it was installed. If there have been any changes or modifications to the measures, BMPs, or structural controls, describe the conditions prior to each change, the nature of each change, and the date(s) of changes, and the reasons why the change(s) were made. In particular, identify

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

EPA's Small Business Websites

Small Business Environmental Homepage - www.smallbiz-enviroweb.org

Small Business Gateway - www.epa.gov/smallbusiness

EPA's Small Business Ombudsman - www.epa.gov/sbo or 1-800-368-5888

EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org or 1-734-995-4911

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Metal Finishing

www.nmfrc.org

Paints and Coatings

www.paintcenter.org

Printed Wiring Board Manufacturing

www.pwbrc.org

Printing

www.pneac.org

Ports

www.portcompliance.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

Hotlines, Helplines and Clearinghouses

www.epa.gov/epahome/hotline.htm

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Antimicrobial Information Hotline

info-antimicrobial@epa.gov or
1-703-308-6411

Clean Air Technology Center (CATC) Info-line

www.epa.gov/ttn/catc or 1-919-541-0800

Emergency Planning and Community Right-To-Know Act

[www.epa.gov/superfund/resources/
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or
734-214-4100

National Pesticide Information Center

www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline - to report oil and hazardous substance spills

www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC)

www.epa.gov/opptintr/ppic or
1-202-566-0799

Safe Drinking Water Hotline

[www.epa.gov/safewater/hotline/index.
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Wetlands Information Helpline

www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

State and Tribal Web-Based Resources

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

EPA's Tribal Compliance Assistance Center

www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

EPA's Tribal Portal

www.epa.gov/tribalportal/

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at www.sba.gov/ombudsman.

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's action without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against a member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Board, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in an enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.